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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,493	06/26/2001	Jean-Luc Bonifas	PHFR 000066	9374

24737 7590 05/12/2004

PHILIPS INTELLECTUAL PROPERTY & STANDARDS  
P.O. BOX 3001  
BRIARCLIFF MANOR, NY 10510

EXAMINER

TRIMMINGS, JOHN P

ART UNIT	PAPER NUMBER
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2133

DATE MAILED: 05/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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## Office Action Summary

Application No.

09/891,493

Applicant(s)

BONIFAS, JEAN-LUC

Examiner

John P Trimmings

Art Unit

2133

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This office action is in response to the applicant's request for reconsideration dated 3/12/2004.

#### ***Response to Amendment***

Claims 1-10 are pending.

#### **Response re: Claim Rejections - 35 USC § 103**

1. The applicant has rebutted the examiner's rejection of Claims 1-10 by arguing that the reference of Molloy et al. does not disclose or suggest the limitations of Claim 1, 4, 7, or 10, namely;

- c) comparison means for comparing received erroneous data frames with corresponding corrected data frames for estimating a minimum error rate, and
- d) analysis means for analyzing incorrigible erroneous received data frames for estimating a maximum error rate involved in the transmission of the received data.

The examiner disagrees, wherein the applicant's arguments filed 3/12/2004 have been fully considered but are not persuasive, as follows:

As per c) above, a well-known quality of service indicator is the BER (bit-error-rate). Molloy et al., in column 9 lines 1-24 utilizes a QOS monitor and Indicator (FIG.3A 43, 46) to compute and provide values for BER (see also column 15 lines 20-23 for determination of minimum rate). The suggestion here is that Molloy et al. performs

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computations, which would include a comparison of corrected data to the total erroneous data error values in order to arrive at the BER. The suggestion is exemplified in column 18 lines 36-38; "monitoring signal quality of the transmission channel; determining if the signal quality falls below a first predetermined threshold".

As per d) above, Molloy et al., in column 9 lines 34-35, discusses using a PER (packet error rate), which is another well-known indicator of QOS, and is comparable to the applicant's "incurable error" rate. And in column 11 lines 18-26, Molloy et al. performs an operation to arrive at the PER, suggesting an analysis of the BER to arrive at PER. And column 9 lines 56-67 and column 10 lines 1-20 indicate and suggest a maximum value triggering reaction from the diagnostic system of this invention.

Based on the above examiners rebut to the applicant's argument, the Claims 1, 4, 7, and 10 are maintained as being rejected.

In view of the examiner's rejection of Claims 1, 4, 7, and 10 above, the subsequent dependence of Claims 2-3, 5-6, 8-9 upon Claims 1, 4, 7, and 10, and the applicant's sole reliance on the argument against independent claims, the examiner maintains the rejections of Claims 1-10 under the premises set forth in the 1<sup>st</sup> office action and the examiners rebuttal above. Therefore, in total, Claims 1-10 are maintained as rejected.

### ***Conclusion***

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John P Trimmings whose telephone number is 703-305-0714. The examiner can normally be reached on Monday through Thursday, 7:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert DeCady can be reached on 703-305-9595. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 09/891,493

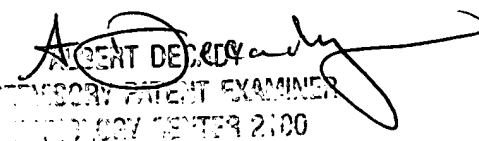
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John P Trimmings  
Examiner  
Art Unit 2133

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